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ROUTING AND RECORD SHEET

SUBJECT: (Optional) Letter to Attorney General Meese regarding proposed Executive order on personnel security

FROM: David P. Doherty
General Counsel

EXTENSION

NO.

ER 1166X 87

DATE

16 March 1987

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Executive Registry
7E 12 Headquarters

18 MAR 1987

Jal

2.

3. Executive Director
7E 12 Headquarters

18 MAR 1987

JL

4.

5. Acting Director of
Central Intelligence
7E 12 Headquarters

19 MAR

RL

6.

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Attached is a letter to Attorney General Meese concerning the proposed Executive order which is responsive to the concerns that you have expressed. The Director of Security has reviewed this letter and concurs.

We have previously made our concerns known to the Department of Justice. They have made some of the changes that we requested, but have refused to budge on some major points. I believe that this letter gets our message across and provides a mechanism by which these concerns can be resolved. If our meetings with the Deputy Attorney General are not satisfactory, we will report back to you.

DCI
EXEC
REG

FORM
1-79

610 USE PREVIOUS EDITIONS

19 March 1987

The Honorable Edwin Meese, III
The Attorney General
Washington, D.C. 20530

Dear Mr. Attorney General:

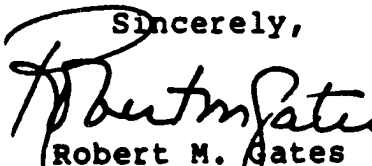
I have reviewed the Department of Justice draft Executive order on personnel security, which would establish government-wide policy concerning access to classified information. Based upon my review, I have concluded that certain provisions of the draft order are inconsistent with the statutory responsibilities of the Director of Central Intelligence (DCI), and are therefore unacceptable.

The order delegates extensive "oversight" authority for personnel security matters to the Information Security Oversight Office (ISOO). The sweeping oversight provisions in the order, which effectively permit ISOO to direct aspects of our security program, and second-guess security policy and other determinations made by the DCI, conflict with the statutory responsibility of the DCI to protect intelligence sources and methods. The order must expressly provide for oversight autonomy for the Central Intelligence Agency and, as appropriate, other intelligence agencies.

The order also imposes as mandatory a set of administrative appeals procedures for the revocation of security clearances and approvals, which must be followed unless the DCI personally certifies otherwise in each case. There is nothing in current law which requires this, and I consider such a requirement an unwarranted intrusion on the statutory discretion of the DCI, which carries with it a serious potential for adverse litigation with respect to the appropriateness of the DCI's certification in each case. Moreover, the order ties the denial and revocation of clearances and approvals to the legal standard of "reasonable doubt," which is an invitation for the entire program to be drawn into unnecessary and debilitating litigation.

I have been told that Deputy Attorney General Arnold I. Burns has been given responsibility for the order. Accordingly, I have asked representatives from my Office of General Counsel to meet with Mr. Burns to discuss my concerns with regard to the order. I am hopeful that a satisfactory accommodation can be agreed upon.

Sincerely,



Robert M. Gates

Acting Director of Central Intelligence

*Ed - I am deeply concerned about the impact
of the draft order on DCI's statutory
authorities. Bob.*